

# MONEY TRANSMISSION

## CHAPTER 80-3-1

### MONEY TRANSMISSION AND RELATED FINANCIAL SERVICES

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#### **80-3-1-.01 Check Sellers and Money Transmitters: Exemptions and Requirements.**

(1) For purposes of this Rule, the term "Licensee" shall mean a person duly licensed by the Department pursuant to O.C.G.A. Article 4 of Title 7, and shall include check sellers and money transmitters. Definitions of these activities are found at O.C.G.A. §7-1-680. The term "agent" shall mean the outlet through which the checks or money orders are sold under an agreement with the "licensee" and shall also include sales outlets that provide money transmission on behalf of a money transmitter on a contractual basis. For the purposes of this Rule or unless otherwise indicated, "sale of checks," "sale" or "issuance of checks" shall include money transmission. A license for sale of checks shall also permit the licensee to conduct money transmission, but the applicant must clearly indicate that it intends to transmit money. A separate license will be issued for persons who intend to conduct only money transmission.

#### (2) Exemption -

(a) The following financial institutions shall be exempt from the licensing requirements of the Georgia Sale of Checks Act when the sale of checks or transmission of money takes place in or through places of business located in this state:

1. A bank, or trust company, a credit union, a savings and loan association, or a savings bank, whether state or federally chartered, whose deposits are federally insured, and
2. The authorized agent of a licensee, or
3. The United States Postal Service.

(b) Financial institutions listed in subparagraph (a) of paragraph (2) of this Rule may designate agents to sell their checks and money orders at non-banking outlets, and the place of business of such agents will not be construed as a branch office. The agent must be bonded and the financial institution made solely liable for the payment of the checks and money orders upon proper presentation and demand. The responsibility of both the financial institution and its agent shall be carefully defined in a written agreement setting forth the duties of both parties and providing for remuneration of the agent. Agents shall be required to report on sales and transmit funds therefrom not later than the end of the fifth business day following receipt of the funds. Arrangements for daily transmission of proceeds of sales is preferable, particularly if the volume of sales justifies more

frequent transmission. The financial institution's blanket bond coverage shall extend to cover agency transactions and transmission of the funds to the financial institution.

(c) Licensees are required to submit agent information to the Department in electronic format. The Department will provide to licensees a recommended electronic file format. The initial agent list should include all agents of the licensee as of the date the licensee begins business. Future reports will be submitted on a semi-annual basis and will include only changes to that list: new agents of the licensee and deleted agents (whether revoked, suspended, or voluntarily closed). Failure to report agents and/or locations in the reporting period in which the agent began offering the licensee's services can result in fines, revocation, suspension, or other administrative action by the Department.

(d) For the purposes of this Rule, semi-annual reporting is defined to be the period January 1 through June 30 of each year, with the reporting due on or before the 1<sup>st</sup> business day of September, and the period of July 1 through December 31, with the reporting due on or before the 1<sup>st</sup> business day of March each year.

(3) Every licensee or agent or other representative of a licensee covered by the Georgia Sale of Checks Act shall display prominently in the premises where checks, money orders, or other instruments are issued and sold a certificate in prescribed form indicating that such sales or transmissions are licensed under the Act. In lieu of the foregoing, window decals and other advertising material relative to the sale of checks or money services available within this State shall bear the legend "LICENSED BY THE GEORGIA DEPARTMENT OF BANKING AND FINANCE" in letters at least one-quarter inch high. The Department may waive the required legend as to specific material distributed in more than one licensing jurisdiction. Failure or refusal to so display such certificate where such sales are made will be cause for revocation or suspension of the designation of a representative or agent of a licensee.

(4) Every licensee giving notices of new locations over those previously reported as required in O.C.G.A. §7-1-686(b) shall do so on forms provided by the Department. Such notice shall include the name and business locations of any agent whose agency has been revoked or suspended by the licensee since the previous report. The reason for such revocation or suspension, and the amount of any outstanding claim by the licensee against the agent relating to the sale of checks shall be provided to the Department upon request.

(5) Audit; semi-annual reports.

(a) Notwithstanding any other rule, every licensee engaging in the sale of checks or money orders whose services may or may not include money transmission shall forward to the Department annually a copy of their certified audit reflecting their condition at the end of the normal accounting period. Each licensee engaging in the sale of checks or money orders whose services may or may not include money transmission is also required to furnish the Department financial information prepared on a semi-annual basis in a form prescribed by the Department. Licensees submitting financial information, in hard copy or electronically, are considered by the Department to be certifying to the material accuracy and validity of the financial information as submitted. All hard copies or electronic transmissions of certified audits should be forwarded to this Department within thirty (30) days after receipt of the report from outside accountants, and in no event will these certified audits be more than fifteen (15) months old.

(b) For the purpose of this Rule, semi-annual reporting is defined to be the period January 1 through June 30 of each year, with the reporting due on or before the 1<sup>st</sup> business day of September, and the period of July 1 through December 31, with the reporting due on or before the 1<sup>st</sup> business day of March each year.

(c) For holders of money transmission licenses only, a certified annual audit is not required. Holders of money transmission licenses only shall submit to the Department on a semi-annual basis the dollar amount of outstanding orders to transmit not yet paid for. The Department will provide forms for reporting the dollar amount of outstanding orders to transmit but not paid for.

(6) Proceeds received from the sale of checks or money transmission net of fees charged and retained by the licensee's agent shall be remitted to the licensee by such means as the licensee shall require within five (5) business days from the date of sale or issuance unless more frequent remittance is required by the Department or the licensee.

(7) Receipt. Each customer placing a money transfer order shall be provided with a written receipt or other evidence of acceptance of the order showing the name of the licensee (or trade name of the licensee as registered with the Department), agent identifier information, the date the order was placed, the dollar amount of the transmission order, and the fee charged.

(8) Licensee liability. Check sellers must sign each check issued and are liable for payment to the same extent as a drawer of a negotiable instrument. Money transmitters, except in cases of gross negligence or intentional acts that result in harm to a person, are responsible to a customer for the amount of money transmitted, plus any fees charged to the customer for the service provided.

Authority O.C.G.A. §7-1-61; §7-1-681; §7-1-704; §7-1-688

### **80-3-1-.02 Check Cashers.**

(1) Every applicant for a license or registration shall demonstrate to the Department that such applicant has sufficient financial resources in the form of working capital and tangible net worth to successfully engage in the business of cashing checks. Sufficiency of financial resources shall be determined through financial analysis by the Department of proforma and historical financial information on the applicant. Each licensee or registrant shall be required to complete and attest to official questionnaires and statements of assets and liabilities when requested for examination purposes. Licensees and registrants shall be prohibited from withholding, deleting, destroying, or altering information requested by an examiner of the Department or making false statements or material misrepresentations to the Department during the course of an examination or on any application or renewal form sent to the Department.

(2) As used in O.C.G.A. Article 4A of Title 7:

(a) "Employee" shall mean such persons (includes a natural person, as well as a partnership, association, corporation or other similar entity) as are regularly compensated by the licensee or registrant, its officers, directors, agents or assigns, to perform services for the licensee or registrant where such persons have access to the monetary resources of the licensee or registrant under the system of internal routine and controls employed in the offices of the licensee or registrant.

(3) Every licensee or registrant shall post in prominent view of each teller window or other customer service station a copy of its license or registration. The words "LICENSED BY THE GEORGIA DEPARTMENT OF BANKING AND FINANCE" or "REGISTERED BY THE GEORGIA DEPARTMENT OF BANKING AND FINANCE", as applicable, in letters at least one-quarter inch high shall be displaced by window decal or other signage at each public entrance to a licensed or registered check cashing business and all other advertising material relative to the cashing of checks distributed within this state.

(4) Exemptions.

(a) Exemptees: Persons who do not charge a fee to cash a check, draft, or money order. Fees may include cash, may be in the form of exchange of value in excess of regular retail value, in the form of mandatory purchase of goods or services by patrons or in the form of the purchase of catalog items or coupons indicating the ability to receive goods, services, or catalog items.

(b) Registrants: Persons charging a fee of no more than two percent (2%) of the face amount of the check, draft, or money order or two dollars (\$2.00) per check, draft, or money order, whichever is greater, as consideration for the cashing of a check may be exempted from the requirement to obtain a license provided such check cashing service is not advertised, announced or otherwise promoted as a service. Such persons are designated as "Registrants." Notwithstanding such exemption from the requirement to obtain a license, such persons shall be subject to the requirements and restrictions on the cashing of checks set forth in O.C.G.A. § 7-1-704 and § 7-1-705, record keeping requirements in subsection 5(b) of this Rule, and other requirements as noted herein. Persons qualifying for registration under the provisions of this subsection shall apply for such registration on forms prescribed by the Department and will be required to pay a registration fee prescribed in Rule 80-5-1-.02.

(5) Minimum Books and Records.

(a) Books and records required herein shall be maintained by every holder of a license or registration as indicated in this Rule. Information required in items 1 through 8 of subsection (5)(b) of this Rule, shall be maintained by all licensees and registrants, cashing checks for an amount of more than one thousand dollars (\$1,000).

(b) A Daily Record of Checks Cashed shall be maintained as a record of all check cashing transactions occurring each day. For all checks in excess of one thousand dollar (\$1,000), such Daily Record shall include:

1. The date of the transaction;
2. Date of the check, draft, or money order (hereafter referred to as "check");
3. Check number;
4. Name and location or routing number of the payor bank;
5. Name of the Drawer of the check;
6. Name, address, and identifying number (social security, driver's license, passport, etc.) of the

person negotiating the check;

7. Amount of the check; and

8. Amount of fee charged for cashing the check.

All other transactions not falling into the categories above may be listed by name of person negotiating the check, amount of check and amount of fee charged. Required information may be maintained through microfilm or other reviewable and reproducible facsimile of the check.

(c) A Daily Cash Reconciliation shall be maintained summarizing each day's activity and reconciling cash on hand at the opening of business to cash on hand at the close of business. Such reconciliation shall separately reflect cash received from the sale of checks, redemption of returned items, bank cash withdrawals, cash disbursed in cashing of checks, and bank cash deposits.

(d) Records required under subsections (b) and (c) may be maintained in combined form, hand or machine posted, or automated.

(e) A General Ledger containing records of all assets, liabilities, capital, income and expenses shall be maintained. The General Ledger shall be posted from the Daily Record of Checks Cashed or other record of original entry, at least quarterly, and shall be maintained in such manner as to facilitate the preparation of an accurate trial balance of accounts in accordance with generally accepted accounting practices. A consolidated General Ledger reflecting activity at two or more locations under the same license or registration may be maintained provided books of original entry are separately maintained for each location.

(f) An original written authorization or other evidence of verification shall be maintained, attesting to the fact that said corporation has authorized its officers and employees or specific officers or employees to present checks, drawn by the corporation payable to cash or drawn by any party payable to the corporation, to a licensee or registrant for cashing. A check casher shall not cash a check payable to persons other than natural persons unless the payee has on file such a written authorization or verification indicating that the payee has authorized the presentation of such checks on behalf of the payee.

(g) For all entities cashing checks, each customer cashing a check shall be offered the option of receiving a receipt showing the name of the licensee or registrant (or trade name of the licensee or registrant), the transaction date, amount of the check, and the fee charged.

(6) Personnel: Licensees and Registrants.

(a) Every licensee or registrant shall maintain personnel files for its employees.

(b) Each candidate for employment involved with the check cashing function must have a Georgia Crime Information Center (GCIC) criminal history background check performed prior to hiring. A copy of this GCIC criminal history background check shall be maintained in the employee's personnel file until one year after termination of employment by the licensee or registrant. Each person in a supervisory position shall complete a Financial and Biographical Information Report (Form MSB-3) as prescribed by the Department, an authorization for Criminal Background Check, and fingerprint record. Prior to promotion to a supervisory position involved in

the check cashing function, or not later than thirty (30) days following promotion to a supervisory position the licensee or registrant shall cause an independent credit report and a criminal background check to be performed on the person promoted. The foregoing documents shall be retained in the personnel file until one year after termination of employment by the licensee or registrant. A "supervisory position" shall mean any position occupied by a person responsible for the day-to-day job performance of one or more other persons or responsible for the overall management of any check cashing outlet except on a temporary (less than one month) basis and irrespective of the number of subordinates employed.

(c) Persons found to have been convicted of an offense punishable as a felony involving moral turpitude in this state may not be employed by a licensee or registrant without compliance with O.C.G.A. § 7-1-702.

(d) Persons found after investigation to have materially misstated information on Form MSB-3 shall be terminated from employment; provided, however, the licensee or registrant may continue employment, subject to review by the Department, by placing in the personnel file a complete statement of extenuating circumstances considered valid reasons for continuing employment.

(7) All checks, drafts, and money orders drawn on a financial institution domiciled in the United States and cashed pursuant to a license or registration under Article 4A of Title 7, O.C.G.A., shall be sent for deposit to the licensee's or registrant's account at a depository financial institution domiciled within the United States or sent for collection not later than close of business on the next business day after the date on which the check was cashed.

(8) Each licensee, registrants, and exemptee shall maintain a principal location at which the books and records are maintained and which is accessible to the Department for examination during normal business hours. The Department may examine registrants and exemptees to verify qualification for exemption from licensing. The penalty for refusal to permit an investigation or examination of books, accounts and records (after a reasonable request by the Department) or for material withholding of information or misrepresentation shall be revocation of the license, registration, or exempt status. The business of the licensee may be conducted through additional outlets, including those operated as mobile facilities, provided that mobile facilities maintain a regular schedule of times and locations at which they provide check cashing services, file the schedule with the Department, and comply with local licensure requirements at each location at which business is conducted.

(9) Sale of Business; Closing of Check Cashing Business.

(a) A licensed check casher or registrant shall notify the Department in writing within fifteen (15) days of the permanent closing of its check cashing business and shall surrender its original license or registration to the Department at that time.

(b) A licensed or registered check casher shall notify the Department in writing thirty (30) days prior to the sale of the check cashing business when such sale results in a change in ownership. Licenses or registrations issued by the Department shall not be transferred or assigned, or subject to a change in ownership without prior written application to and approval by the Department. Any license or registration that is transferred, assigned or subject to a change in ownership without prior approval of the Department shall be regarded as invalid under law. Engaging in the business of cashing checks under a license or registration that has been transferred, assigned or otherwise

acquired without prior approval by the Department shall subject a person to fines and administrative action.

Authority O.C.G.A. §7-1-61; §7-1-688; §7-1-707.3; §7-1-704; §7-1-709.

### **80-3-1-.03 Money Service Businesses: Compliance with Federal Requirements.**

(1) For the purposes of this Rule, Money Service Businesses (MSBs) refer to a class of non-bank financial institutions defined in the federal Bank Secrecy Act, for purposes of this Rule Chapter the “Act”), which Act requires such non-bank financial institutions to register with the Department of the Treasury and to comply with other recordkeeping and compliance laws.

(2) A licensee or registrant under O.C.G.A. Article 4 or 4A of Title 7 that is by definition an MSB under federal law, shall comply with the federal registration requirements for such businesses and shall provide the Department with evidence of such registration.

(3) Georgia requires that all licensees and registrants under O.C.G.A. Article 4 or 4a of Title 7 comply with the recordkeeping requirements, the necessity for a compliance program, currency transaction reporting, and suspicious activity reporting of the Act and its regulations, including those at 31 CFR Part 103 provided they are required to do so by the Act. MSBs filing a suspicious activity report (SAR) with a federal authority must send a copy of such report to the Department at the same time the SAR is filed. Other recordkeeping requirements required by state law are provided for in Rule 80-3-1-.02(5). Licensees and registrants may consult [http://www.fincen.gov/financial\\_institutions/msb/](http://www.fincen.gov/financial_institutions/msb/) for questions about the federal requirements.

Authority O.C.G.A. §7-1-61; §7-1-688; §7-1-704.

### **80-3-1-.04 Reports of Large Currency Transactions, Recordkeeping, and Suspicious Activity Reporting Requirements for Check Cashers, Check Sellers and Money Transmitters.**

(1) Persons engaged in the business of cashing checks for a fee, selling checks, and transmitting money and agents of such persons shall be subject to the filing requirements for large currency transactions as prescribed in O.C.G.A. Article 11 of Title 7, and as further directed herein.

(2) Reporting requirements to this Department contained in O.C.G.A. Article 11 of Title 7, shall be met by filing with the appropriate federal agency a copy of the form(s) filed in compliance with the Act within the time limits set forth therein. Such forms shall include the filing of currency transaction reports and suspicious activity reports as described in the Act and accompanying regulations.

(3) Recordkeeping. Georgia law regarding recordkeeping for check cashers, check sellers and money transmitters shall be satisfied by compliance with federal law. Such law will include the Act and regulations at 31 CFR Part 103. Check cashers not considered a money service business under the Act shall comply with the state recordkeeping requirements at Rule 80-3-1-.02(5).

(4) Records required to be maintained under Section (3) of this rule may be maintained in a photographic, electronic, or other similar form at a central location within or outside the State of

Georgia provided specific records can be provided within two (2) days of the date of a written notice by the Commissioner to the licensee.

(5) Currency transaction reporting requirements for financial institutions are contained in Rule Chapter 80-9-1 of the Department's regulations.

Authority O.C.G.A. §7-1-61; §7-1-688; §7-1-704.

**80-3-1-.05 Repealed. Reserved.**

**80-3-1-.06 Reports of Apparent Criminal Irregularity by Check Cashers, Check Sellers, Money Transmitters, and Agents.**

(1) Sale of check and money transmitter licensees shall file with the Department the name, location, and federal tax identification number of any agent within this state who has failed to remit to the licensee the proceeds received from the sale of the licensee's checks or from licensee's money transmission activities within five (5) business days, or such lesser period of time as the licensee shall require, from the date of such sale or order to transmit and whose agency status has been terminated due to said failure with an outstanding liability due to the licensee. The report shall state the aggregate amount of unremitted check sales or money transmission proceeds due to the licensee and any provisions which have been made to recover same.

(2) Every licensed check casher and such other persons who charge a fee to cash a check shall report to the District Attorney or other appropriate law enforcement body having jurisdiction any transaction performed by them involving a check, draft or money order in the amount of one thousand dollars (\$1,000) or more which is found to have been altered, forged, stolen, obtained through fraudulent or illegal means, or negotiated without proper legal authority or which represents the proceeds of illegal activity. Such report shall include a copy of the check, draft or money order. The original of such check, draft or money order shall be retained by the check casher unless released to or with the consent of the District Attorney for the judicial circuit in which the check casher or his representative is located.

(3) Structuring to avoid reporting.

(a) Any person licensed to sell checks or cash checks in this state, agents of such licensees, other persons who cash checks for a fee, and persons operating a money transfer business and agents of such money transfer operators shall report to the Department any instance involving such check sales, check cashing, or money transfer operation where there is reasonable cause to believe that its customer has, for the purpose of evading the reporting requirements of the Act or O.C.G.A. Article 11 of Title 7:

1. Caused or attempted to cause a currency transaction report required under O.C.G.A. Article 11 of Title 7 or the Act not to be filed;

2. Caused or attempted to cause a currency transaction report required under O.C.G.A. Article 11 of Title 7 or the Act, to be filed containing a material omission or misstatement of fact;



3. Structured or assisted in structuring or attempted to structure or assist in structuring any currency transaction.

(b) For purposes of this Rule, “material omission” or “misstatement” and “structuring” shall have the meaning accorded such terms in O.C.G.A. §7-1-912.

(c) Agents of persons licensed to sell checks or cash checks in this state and agents of persons operating a money transfer business in this state shall not be required to report as provided in subsection (a) where the grantor of the agency has advised the agent in writing that the grantor operates a system of internal procedures designed to gather the pertinent data and file the reports required in subsection (a).

(4) Any licensee for the sale of checks, money transmitter, or check casher shall notify the Department within five (5) business days of any discovery of any criminal act or apparent criminal act by any officer, director, or employee of such licensee occurring in this state and relating to the business of the licensee. Such notification shall include a full description of the acts or apparent acts believed to be in violation of the criminal laws of this state or the United States, the names of all persons believed to be involved, a statement as to action taken by the licensee in response to the discovery or suspicions, and a copy of written notification to the licensee's employee fidelity insurance carrier.

(5) Licensees governed by these Rules shall be subject to amendments of the Act which may impose other reporting obligations for suspicious transactions.

Authority O.C.G.A. §7-1-61; §7-1-688; §7-1-704.

#### **80-3-1-.07. Administrative Fines and Penalties.**

(1) Check Cashers. As authorized under O.C.G.A. Article 4A of Chapter 1 of Title 7, including O.C.G.A. §7-1-707(e)(6), the Department establishes the following fines and penalties for violation of the laws and rules governing check cashers. Except as otherwise indicated, these fines and penalties apply to any person, partnership, association, or corporation engaged in the business of cashing checks, drafts, or money orders for a consideration that is required to be licensed or registered under O.C.G.A. Article 4A of Chapter 1 of Title 7 (“licensee” or “registrant”). The Department, at its sole discretion, may waive or modify a fine based upon the gravity of the violation, history of previous violations, and such other facts and circumstances as have contributed to the violation.

(a) Books and Records. If the Department in the course of an examination or investigation, finds that a licensee or registrant has failed to maintain their books and records or failed to certify to the books and records according to the requirements of O.C.G.A. § 7-1-705(b) and Rules 80-3-1-.02(1) or 80-3-1-.02(5), such licensee or registrant shall be subject to a fine of one thousand dollars (\$1,000) for each type of record listed in Rules 80-3-1-.02(1) or 80-3-1-.02(5) which is not in compliance or which is absent or uncertified.

(b) Excessive Fees. If the Department, in the course of an examination or investigation, finds that a licensee or registrant has charged check cashing fees in excess of the amount set forth in O.C.G.A. § 7-1-706, such licensee or registrant shall be subject to a fine of one thousand dollars

(\$1,000) per occurrence and its license or registration will be subject to revocation or suspension.

(c) Posting of Charges. Any licensee or registrant who does not display, at all locations, a notice stating the charges/fees for cashing checks in accordance with O.C.G.A. § 7-1-705(a) shall be subject to a fine of five hundred dollars (\$500).

(d) Operating Without Proper License or Registration. Any person who acts as a check casher prior to receiving a current license or registration required under O.C.G.A. Article 4A of Chapter 1 of Title 7, or who acquires a check cashing business and operates without their own license, or during the time a suspension, revocation or applicable cease and desist order is in effect, shall be subject to a fine of one thousand dollars (\$1,000) per day and their check casher application will be subject to denial or their license or registration will be subject to revocation or suspension, as applicable.

(e) Felons. Any licensee or registrant that hires or retains an employee who is a felon as described in O.C.G.A. § 7-1-702(b), when such employee has not complied with the remedies provided for in O.C.G.A. § 7-1-702(b) for each conviction, may be fined five thousand dollars (\$5,000) for each such employee and their license or registration will be subject to revocation or suspension.

(f) Employee Background Checks. Any licensee or registrant that hires or retains an employee involved with the check cashing function for whom a Georgia Crime Information Center (GCIC) criminal background check has not been performed prior to employment, will be subject to a fine of one thousand dollars (\$1,000) per occurrence. Proof of the required GCIC criminal background check must be retained in the employee's personnel file until one year after termination of employment by the licensee. Notwithstanding compliance with this requirement to perform a GCIC criminal background check prior to employment, failure to maintain criminal background checks as required will result in a fine of one thousand dollars (\$1,000) for each employee personnel file that is missing this documentation.

(g) Examination Fees. Any licensee or registrant that does not submit payment to the Department, within sixty (60) days of the fee statement date, for examination fees charged in accordance with O.C.G.A. § 7-1-704(b) and Rule 80-5-1-.03(1) shall be subject to a fine of five hundred dollars (\$500) and their license or registration will be subject to revocation or suspension.

(h) Other Business Activities. Any licensee or registrant found to have violated any law of this state by conducting any other business that is not lawful in conjunction with the check cashing business, shall be subject to a fine of five thousand dollars (\$5,000) and its license or registration will be subject to revocation or suspension.

(i) Advertising. Any person who has been designated as a registrant by the Department and who violates the law and/or Rules pertaining to advertising set forth in O.C.G.A. § 7-1-700(4) and Rule 80-3-1-.02(4)(b) shall be subject to a fine of five hundred dollars (\$500) for each such violation and may be required to surrender its registration and apply for a license, if the Department determines that is the proper designation based upon the nature of the violation(s).

(j) Advertising – “No Identification Required.” A licensee or registrant that advertises that it will cash checks with no identification required will be subject to a fine of one thousand dollars (\$1,000).

(k) Check Cashing Identification Requirements. No licensee or registrant shall cash checks without identification of the bearer of such check. Failure to comply with the requirements of O.C.G.A. § 7-1-705(f) shall subject the licensee or registrant to a fine of one thousand dollars (\$1,000) per occurrence.

(l) Failure to Submit to Exam. The penalty for refusal to permit an investigation or examination of books, accounts, and records, by the Department shall be revocation of license or registration and a five thousand dollars (\$5,000) fine. "Refusal" shall be determined according to Department Rules, examination policies and procedures, but shall require at least two (2) attempts to schedule an examination.

(m) Consumer Complaints. Any licensee or registrant who fails to respond to a written consumer complaint or fails to respond to the Department regarding a consumer complaint, within the time periods specified in the Department's correspondence to such licensee or registrant, shall be subject to a fine of one thousand dollars (\$1,000) for each occurrence. Repeated failure to properly respond, as reasonably determined by the Department, may result in revocation of license or registration.

(n) Failure to Notify the Department of Change in Ownership. Any licensee, registrant or other person who fails to notify and obtain the Department's approval of a change in ownership shall be subject to a fine of five thousand dollars (\$5,000) and administrative action by the Department.

(o) Bank Secrecy Act. If the Department, in the course of an examination or investigation, finds that a licensee or registrant has failed to comply with the requirements referred to in Rule 80-3-1-.03(3) entitled "Money Service Businesses Compliance with Federal Requirements," such licensee or registrant shall be subject to a fine of one thousand dollars (\$1,000) for each instance of non-compliance.

(p) Failure to Post Required License or Registration. Any licensee or registrant that fails to post a copy of its license or registration in prominent view of each teller window or other customer service station, and at each public entrance to a licensed or registered check cashing business as required shall be subject to a fine of five hundred dollars (\$500) for each instance of non-compliance.

(2) Check Sellers and Money Transmitters. As authorized under Article 4 of Chapter 1 of Title 7, O.C.G.A. § 7-1-689(f), the Department establishes the following fines and penalties for violation of the laws and rules governing sale of check companies and money transmitters. Except as otherwise indicated, these fines and penalties apply to any person, partnership, association, or corporation engaged in the business of transmitting money or selling or issuing checks, money orders, or any other instrument, order, or device for the payment or transmission of money or monetary value that is required to be licensed under O.C.G.A. Title 7, Article 4 ("licensee"). The Department, at its discretion, may waive or modify a fine based upon the gravity of the violation, history of previous violations, and such other facts and circumstances as have contributed to the violation.

(a) Books and Records. If the Department, in the course of an examination or investigation, finds that a licensee has failed to maintain their books and records according to the requirements of O.C.G.A. § 7-1-687.1, such licensee shall be subject to a fine of one thousand dollars (\$1,000) for each type of record listed in O.C.G.A. § 7-1-687.1 which is not in compliance.

(b) Operating Without Proper License. Any person who acts as a check seller or money transmitter prior to receiving a current license required under O.C.G.A. Article 4 of Chapter 1 of Title 7, or during the time a suspension, revocation or applicable cease and desist order is in effect, shall be subject to a fine of one thousand dollars (\$1,000) per day of such operation and their application will be subject to denial or their license or registration will be subject to revocation or suspension, as applicable.

(c) Felons. Any licensee that hires or retains an employee who is a felon as described in O.C.G.A. § 7-1-682(c), when such employee has not complied with the remedies provided for in O.C.G.A. § 7-1-682(c) for each conviction before such employment, may be fined five thousand dollars (\$5,000) for each such employee and their license will be subject to revocation or suspension.

(d) Locations and Agents. Any licensee that does not give timely notice to the Department of new locations or agents beyond those previously reported as required in O.C.G.A. § 7-1-686(b) and Rules 80-3-1-.01(2) and 80-3-1.01(4), shall be subject to a fine of five hundred dollars (\$500) for each location or agent not reported.

(e) GCIC Background Checks on Employees and Agents. Any licensee that does not obtain a Georgia Crime Information Center (GCIC) criminal background check on employees or agents involved with the check selling function prior to the initial date of hire shall be subject to a fine of one thousand dollars (\$1,000). Proof of the required GCIC criminal background check must be retained by the licensee until one year after termination of employment by the licensee. Failure to maintain criminal background checks as required will result in a fine of one thousand dollars (\$1,000) per employee personnel file absent such documentation.

(f) Agents. Any licensee that does not give notice of any agent whose agency certificate has been revoked or suspended by the licensee as required by Rule 80-3-1.01(4), shall be subject to a fine of five thousand dollars (\$5,000) for each agent suspension or revocation not reported in writing to the Department.

(g) Failure to Provide Receipt. A licensed money transmitter, or its authorized agent, that does not provide the customer with a written receipt or other evidence of acceptance as required in Rule 80-3-1-.01(8), shall be subject to a fine of one thousand dollars (\$1,000) per transaction where the receipt was not provided.

(h) Examination Fees. Any licensee that does not submit payment to the Department, within sixty (60) days of the fee statement date, for examination fees charged in accordance with O.C.G.A. § 7-1-684.1 and Rule 80-5-1-.03(1) shall be subject to a fine of one thousand dollars (\$1,000) and their license will be subject to revocation or suspension.

(i) Other Business Activities. Any licensee found to have violated any law of this state by conducting any other business that is not lawful in conjunction with the sale of check or money transmission business, shall be subject to a fine of five thousand dollars (\$5,000) and their license will be subject to revocation or suspension.

(j) Failure to Report. Any licensee who fails to provide required reports as established by the Department from time to time, including the Semi-Annual Reports within the designated time periods established by the Department, shall subject the licensee to a fine of five thousand dollars (\$5,000) for each such occurrence. Repeated failure to provide timely Reports as required may result

in revocation of license, registration, or exempt status.

(k) Failure to Submit to Exam. The penalty for refusal to permit an investigation or examination of books, accounts, and records, to the Department shall be revocation of the license or registration and a one thousand dollars (\$1,000) fine. "Refusal" shall be determined according to the Department's Rules, examination policies and procedures, but shall require at least two (2) attempts to schedule an examination.

(l) Consumer Complaints. Any licensee who fails to respond to a written consumer complaint or fails to respond to the Department regarding a consumer complaint, within the time periods specified in the Department's correspondence to such licensee, shall be subject to a fine of one thousand dollars (\$1,000) for each occurrence. Repeated failure to properly respond, as reasonably determined by the Department, may result in revocation of license.

(m) Bank Secrecy Act. If the Department, in the course of an examination or investigation, finds that a licensee or registrant has failed to comply with the requirements referred to in Rule 80-3-1-.03(3) entitled "Money Service Businesses Compliance with Federal Requirements," such licensee or registrant shall be subject to a fine of one thousand dollars (\$1,000) for each instance of non-compliance.

(3) All fines levied by the Department are due within thirty (30) days from date of assessment and must be paid prior to renewal of the annual license or registration, reapplication for a license or registration, or any other activity requiring Departmental approval.

(4) All fines collected by the, Department net of the cost of recovery, which cost may include any cost of hearing and discovery in preparation for hearing, shall be paid into the state treasury to the credit of the general fund or may be paid as provided in O.C.G.A. § 7-1-704(d).

Authority O.C.G.A. § 7-1-61; § 7-1-688; § 7-1-707.

### **80-3-1-.08 State Requirements for Financial Institutions.**

(1) A financial institution required to report any currency transaction in excess of ten thousand dollars (\$10,000) including a transaction in excess of one hundred thousand dollars (\$100,000) may satisfy state CTR filing and reporting requirements by filing a timely report (federal form 4789) with a federal authority as designated in the Act.

(2) Banks and credit unions are required to follow federal guidelines and requirements for detecting abuses or the structuring of transactions designed to avoid Act reporting.

Authority O.C.G.A. §7-1-61.